IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 7757 of 2007(W)

PETITIONERS:
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1. **GANGADHARAN PILLAI, AGED 59 YEARS, S/O.PACHAN PILLAI, 201 CANTONMENT SOUTH NAGAR, KOLLAM, FROM THEKKAZHIKATHU VEEDU, VADAKKEVILA P.O KOLLAM.**

2. **GAYATRI, W/O.GANGADHARAN PILLAI, 201 CONTONMENT SOUTH NAGAR, KOLLAM FROM THEKKAZHIKATHU VEEDU, VADAKKEVILA P.O., KOLLAM.**

BY ADV. SRI.C.RAJENDRAN.

RESPONDENTS:
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1. **THE UNION OF INDIA, REPRESENTED BY THE SECRETARY TO THE CENTRAL GOVERNMENT, CENTRAL SECRETARIATE, NEW DELHI.**

2. **THE PRESIDING OFFICER, DEBTS RECOVERY TRIBUNAL, ERNAKULAM.**

3. **THE CANARA BANK, THATTAMALA BRANCH KOLLAM, REPRESENTED BY ITS MANAGER.**

4. **THE AUTHORIZED OFFICER, THE CANARA BANK, THATTAMALA BRANCH, KOLLAM.**

BY ADV. SRI.M.C.SEN, SC, CANARA BANK,
ADV. SRI. JOHN VARGHESE, A.S.G.I.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.7757/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE PORTION OF THE MATHRUBHOOMI NEWS PAPER CONTAINING THE NOTICE DTD. 21/11/2006.

EXT.P.2: COPY OF THE NOTICE DTD. 09/01/2007.

EXT.P.3: COPY OF THE SAID STATEMENT OF ACCOUNT DTD. 23/02/2007.

EXT.P.4: COPY OF THE PETITION DTD. 03/03/07.

EXT.P.5: COPY OF THE RELEVANT PORTION OF THE ORDER.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

S. SIRI JAGAN, J.

WP(C) NO. 7757 OF 2007 - W

Dated this the 6th day of July, 2007

J U D G M E N T

The petitioners challenge proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. However, the petitioners only seek facility to pay the amounts in instalments now.

2. I have heard the learned counsel for the Bank also. At the time of admission, this Court had passed an interim order as follows:-

> "Notice and interim direction for four months on condition that the petitioners deposit at the rate of Rupees twenty five thousand per month payable on or before the last working day of every month commencing from March 2007, without fail. If there is default in depositing any of the instalments as aforesaid, the benefit of this order shall stand recalled automatically."

3. In view of the interim order, I feel that the petitioners can be allowed to continue to pay the amounts due, as per the interim order as above. Accordingly, the

writ petition is disposed of with the following directions:-

The petitioners shall continue to pay instalments as permitted in the interim order. If the petitioners pay the instalments promptly, without default, the impugned proceedings shall be kept in abeyance. However, if the petitioners commit default in payment of any one instalment, it would be open to the Bank to continue proceedings as now initiated without having to issue any fresh notice or proceedings in that regard. In the mean while, the petitioners may approach the Bank for one time settlement if a scheme is available. If the petitioners are entitled to the benefit of such scheme, the Bank shall consider the petitioners' claim and pass appropriate orders thereon. If the One Time Settlement benefit is granted, proportionately, the amount payable shall be adjusted, accordingly.

Sd/-
S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007